



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/567,053 | 02/02/2006 | Rainer Schenk | INA23 | 4852 |
| 20311 7590 03/14/2008 LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016 | | | | |
| EXAMINER | | | | |
| CHARLES, MARCUS | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3682 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 03/14/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,053

Applicant(s)

SCHENK ET AL.

Examiner

Marcus Charles

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 02-02-2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This is the first action relating to serial application number 10/567,053 filed 02-02-2006. Claims 1-21 are currently pending.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The examiner has accepted the drawing filed with this application as formal drawing.

Specification

Abstract

3. The abstract of the disclosure is objected to because the phrase "The invention relates to" is a phrase which can be implied and it is not proper to include such phrase in the abstract. Correction is required. See MPEP § 608.01(b).
4. Applicant is reminded of the proper language and format for an abstract of the disclosure.
The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.
5. The disclosure is objected to because of the following informalities: It is not proper to include references to the claim numbers in the specification. Therefore, the references to the claims in pages 2-4 must be removed.

Art Unit: 3682

6. In page 9, lines 12-13, it is not clear as to what SF 502, KE 2/3k-10 and DIN 51 502 mean. The use of the trademark "KE 2/3 K" and "DIN 51" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Appropriate correction is required.

Claim Objections

7. Claim 3 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

In claim 5, line 7, "the hub (20)" should be --the hub (9)--.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 2-3 is rejected 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 2, 11 and 21, the term "preferably" renders the intended scope of the claim unclear because it is not clear if the limitation subsequent to the term is part of the claimed invention.

In addition, claim 3 fails to limit the independent claim because the limitation of the claimed is just intended use and does not limit the claim structure.

In claim 5, "the sealing cap" lacks antecedent basis. It appears claim 5 should depend from claim 2.

In claim 5, it is not clear as to what is meant by "means of force-10 locking".

Claim 7-10, the phrase "on the one hand" and "on the other" renders the intended scope of the claim unclear because it is not clear as to the meaning of the phrases. In addition, it is not clear if seal is between the rim and the sealing plate or the rim and the hub because the phrase "on one hand or a rim" is unclear as to the scope of the claim.

In claim 8, the phrase "as seal (23a, 23b)" is unclear because it is not clear if the seal of claim 7 is the same as that of the claim. It appears that there is a double inclusion. Note: it is suggested to insert --the-- subsequent to "seal".

Claim 9 is unclear and confusing because it is not clear as to what the claim is intended to convey because the language of the seal and the cap or the sealing plate or not in the alternative.

In claim 12, the phrase "the sealing plate(24a) fitted the seal(29)" is unclear and confusing.

In claim 16, "the radially inward facing flank (30), "the end bent" lacks antecedent basis.

Art Unit: 3682

In claim 17, "the radially inward facing flank" and "the end bent" lacks antecedent basis.

In claim 18, it is not clear if "an elastic medium" is the same as that of claim 1. If they are the same, then there includes a double inclusion.

In claim 21, it is not clear as to what the phrases "KE 2/3 K" and "DIN 51502" is referring to and it is not clear if they are part of the claimed invention.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-3, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (6,854,893) in view of DE (3514203). Schmidt discloses a seal for a roller bearing comprising a sealing cap (28) assigned to a hub (30) enclosing the roller bearing (3) and covers the front face of the roller bearing; the sealing cap is fixed to the hub by a positive interlock and force-locking, an elastic sealing medium (11) in a fitting spaced. Schmidt does not disclose an axial accommodation between the sealing cap and the hub. DE (3514203) disclose a seal for a roller bearing comprising a cap (2) engaged to a hub (5) and an elastic sealing element (3) in a axial accommodation between the hub and the cap. Therefore, it would have been obvious to one of ordinary skill in

the art at the time of the invention to modify the device of Schmidt so as to include an axial accommodation between the hub and the cap and an elastic in the axial space in view of DE (3514203) in order to prevent the escape of grease or lubricant between the cap and the hub and to provide a damped effect between the hub and the cap.

In claim 3, note Schmidt disclose the pulley (1).

Allowable Subject Matter

12. Claims 1 and 4-21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Citation

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the prior art cited in attached PTO Form 892.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcus Charles/
Primary Examiner, Art Unit 3682